

Appl. No.: 10/660,989  
Amtd. Dated: 02/17/2006  
Off. Act. Dated: 12/14/2005

### REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested in view of the foregoing amendments and discussion presented herein.

1. Allowance of Claims 15-17 and 20.

Applicant notes with appreciation that Claims 15-17 and 20 are allowed.

2. Rejection of Claims 6, 14, 18, 19, 26 and 34 under 35 U.S.C. §112, first paragraph.

(a) Claims 6, 19 and 26. Claims 6, 19 and 26 were rejected under 35 U.S.C. §112, first paragraph as containing the trademark/trade name BARRACADE and being indefinite. Claims 6, 19 and 26 are hereby cancelled rendering rejection of these Claims moot.

(b) Claims 14, 18 and 34. Claims 14, 18 and 34 were rejected under 35 U.S.C. §112, first paragraph as containing the trademark/trade name THERMOLAG 3000 and being indefinite. Claims 6, 19 and 26 are hereby amended to remove the reference to THERMOLAG 3000. Applicant respectfully requests the rejection of Claims 14, 18 and 34 be withdrawn and to allow these Claims in the next Office Action on the merits in this Application.

3. Rejection of Claims 1-3, 7, 8, 13, 14, 21-23, 27, 28 and 33 under 35 U.S.C. § 103(a).

Claims 1-3, 7, 8, 13, 14, 21-23, 27, 28 and 33 were rejected under 35 U.S.C. § 103(a), as being unpatentable over Bohm (6,520,104) in view of McGarvey (4,989,750 and Dodson (5,960,981).

(a) Claims 1 and 21. Claims 1 and 21 are independent claims. The Examiner contends that "McGarvey also teaches fire resistant solution disposed in the interstitial space for improved safety 221a, 221b, 221c. Fire resistant solution is injected in liquid form." In response, the Applicant has amended Claims 1 and 21 to more particularly claim the invention and recite, in part, "wherein said fire resistant solution remains liquid and is removable from said interstitial space in liquid form."

Support for Applicant's amendment is found in paragraph [0024]:

Appl. No.: 10/660,989  
Amdt. Dated: 02/17/2006  
Off. Act. Dated: 12/14/2005

"Another aspect is a base tank with a fire resistant solution installed in the interstitial space between the inner tank and the outer tank. In one mode of this aspect, the fire resistant solution is installed after the base tank is in place. In another mode, the fire resistant solution can be removed to inspect or repair the base tank while the base tank remains in place. In a further mode, the base tank can be put back in service after a fire by replacing the fire resistant solution."

In McGarvey, "After positioning of all three tanks shown, expandable thermal barrier material is injected via nozzle 244, into space 217a, 217b and 217c and may expand therein as foam..." (col. 3:11-14), and "The barrier material cures in situ, after its injection and expansion. Usable thermal barrier material include Styrofoam, VERMICULITE, and the like." (col. 3:20-22). The liquid injected in McGarvey hardens or cures in situ. Other tanks in the art similarly use concrete that is injected as a liquid and hardens in situ. The hardened material in these tanks cannot be easily removed or replaced to access the inner tank for inspection or repair or to move the tank.

In applicant's invention, the fire resistant solution can be drained or pumped out and small access holes cut for inspection or repair. Once the holes are welded closed, the fire resistant solution is easily poured back into the interstitial space. Further, the fire resistant solution can be removed to reduce tank weight prior to moving. Hardened fire resistant material in the interstitial space is a limitation not present in Applicant's invention.

In view of the amendment to Claims 1 and 21 and accompanying remarks above, Applicant believes that this ground for rejection has been sufficiently addressed and overcome, and respectfully requests reconsideration and withdrawal of this ground for rejection and that allowance of these independent claims and all claims depending therefrom be indication in the next Office Action on the merits in this Application.

(b) Claims 7, 8, 27 and 28. Regarding Claims 7 and 27, the Examiner contends that, "McGarvey claims a tank wall of at least about 2 inches (col. 10 ln. 55). this would be included in the range of about 2 inches or less and also about 4 inches or less." Regarding Claims 8 and 28, the Examiner contends that, "It would have been an

Appl. No.: 10/660,989  
Amdt. Dated: 02/17/2006  
Off. Act. Dated: 12/14/2005

obvious matter of design choice to make this space 1 inch." "Furthermore, the applicants disclosure fails to show how this dimension is critical or how this dimension show new or unexpected results over the prior art."

In response, Applicant has amended Claims 7 and 27 to recite, in part, "wherein said interstitial space adjoining said sidewalls of said inner tank and adjoining said bottom wall of said inner tank is about 1 inch to about less than 2 inches." Support for this amendment is found in paragraph [0041]. Further, Applicant has cancelled Claims 8 and 28 as the subject matter is now incorporated in Claims 7 and 27 as amended.

In McGarvey, "The overall tank wall thickness is at least about two inches and is bullet (small caliber) resistant." (col. 3:1-2). In order to be both fire and projectile resistant, McGarvey requires three steel tank walls, two interstitial spaces with a hardened fire resistant material in one interstitial space, and a thickness of at least 2 inches. The extra steel wall and interstitial space adds cost, weight and bulk to the tank walls. Weight translates into increased complexity in moving and installing the tank. Bulk translates into decreased fuel capacity of the inner tank for a given installation space or footprint.

In Applicant's invention, paragraph [0015] states,

"The inventive combination of a type 316 double wall steel tank with an outer intumescent fire resistant coating coupled with a fire resistant solution in the interstitial space exhibits sufficient fire resistance to meet the UL 2085 standard.

The physical properties of the type 316 stainless steel combined with the fire resistant solution in the interstitial space also exhibit sufficient resistance to physical and projectile damage to meet the UL 2085 standard."

Further, in paragraph [0026],

"A further aspect is a base tank with an interstitial space between the inner tank and the outer tank of about two inches or less for side and bottom walls and about four inches or less for top walls. In beneficial mode of this aspect, the interstitial space between the side walls and bottom walls of the inner tank and the outer tank is about one inch."

These aspects of Applicant's invention address the solution to the problem

Appl. No.: 10/660,989  
Amdt. Dated: 02/17/2006  
Off. Act. Dated: 12/14/2005

stated in paragraph [0007], namely

"Commercially available base tanks constructed to the UL 2085 standard typically use a double wall metal tank with concrete, solidified foam or other solid insulating material in an interstitial space of about six inches to resist the heat of a two hour fire and provide damage and projectile protection. The fire resistant insulation is typically installed before the tank is transported to the site. Increased tank weight increases cost and complexity of installation, however. The relatively large interstitial space required for solid insulating material significantly increases the footprint of the base tank and decreases fuel volume for a given installation space. Furthermore, once installed, solid insulating material cannot be easily removed from the interstitial space for inspection or repair."

Thus applicant's combination of 316 stainless steel tank walls, a fire resistant coating and fire block gel in the interstitial space is both fire resistant and projectile resistant with greater fuel capacity in the inner tank than expected in McGarvey for the same footprint.

In view of the amendment to Claims 7 and 27 and accompanying remarks above, Applicant believes that this ground for rejection has been sufficiently addressed and overcome, and respectfully requests reconsideration and withdrawal of this ground for rejection and that allowance of these claims and all claims depending therefrom be indication in the next Office Action on the merits in this Application.

(c) Claims 2-3,13,14,22-23 and 33. These claims depend variously from Independent Claims 1 and 21. Applicant believes that Claims 1 and 21 as amended herein are now in condition for allowance. Therefore Applicant submits these dependent claims should be considered allowable as a result of the allowability of their antecedent independent claims.

4. New Claim 35.

New dependent Claim 35 recites, "wherein said fire resistant solution remains liquid and is removable from said interstitial space in liquid form." This claim recites additional limitations to allowed Claim 15 to more particularly claim the invention. Support for this claim is provided in paragraph 3 above.

Appl. No.: 10/660,989  
Amdt. Dated: 02/17/2006  
Off. Act. Dated: 12/14/2005

5. Claim Fees.

Five dependent claims are cancelled and one new dependent claim is added in this amendment. No additional claim fees are required.

6. Amendment of Specification.

The Applicant has amended the specification to acknowledge baffles in the prior art. The Applicant apologizes for any inconvenience to the Examiner.

7. Amendments Made Without Prejudice or Estoppel.

Notwithstanding the amendments made and accompanying traversing remarks provided above, Applicants have made these amendments in order expedite allowance of the currently pending subject matter. However, Applicants do not acquiesce in the original ground for rejection with respect to the original form of these claims. These amendments have been made without any prejudice, waiver, or estoppel, and without forfeiture or dedication to the public, with respect to the original subject matter of the claims as originally filed or in their form immediately preceding these amendments.

Applicants reserve the right to pursue the original scope of these claims in the future, such as through continuation practice, for example.

8. Conclusion.

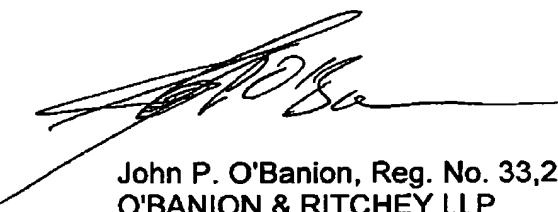
Based on the foregoing, Applicants respectfully request that the various grounds for rejection in the Office Action be reconsidered and withdrawn with respect to the presently amended form of the claims, and that a Notice of Allowance be issued for the present Application to pass to issuance.

Appl. No.: 10/660,989  
Amtd. Dated: 02/17/2006  
Off. Act. Dated: 12/14/2005

In the event any further matters remain at issue with respect to the present application, Applicants respectfully request that the Examiner please contact the undersigned below at the telephone number indicated in order to discuss such matter prior to the next action on the merits of this application.

Date: 2/17/06

Respectfully submitted,



John P. O'Banion, Reg. No. 33,201  
O'BANION & RITCHIEY LLP  
400 Capitol Mall, Suite 1550  
Sacramento, CA 95814  
(916) 498-1010